

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

**CERTAIN INTEGRATED CIRCUITS,
COMPONENTS THEREOF, AND
PRODUCTS CONTAINING THE SAME**

Inv. No. 337-TA-1350

**ORDER NO. 25: DENYING COMPLAINANT REALTEK SEMICONDUCTOR
CORP.'S MOTION FOR SUMMARY DETERMINATION**

(Sep. 7, 2023)

On August 17, 2023, complainant Realtek Semiconductor Corporation (“Realtek”) moved (1350-014) for summary determination regarding four issues. On August 28, 2023, respondent Advanced Micro Devices, Inc. (“AMD”) filed an opposition (“Opp’n”).

Commission Rule 210.18, in pertinent part, states:

Any party may move with any necessary supporting affidavits for a summary determination in its favor upon all or any part of the issues to be determined in the investigation. . . . Any nonmoving party may file opposing affidavits within 10 days after service of the motion for summary determination. The administrative law judge may, in his discretion or at the request of any party, set the matter for oral argument and call for the submission of briefs or memoranda. The determination sought by the moving party shall be rendered if pleadings and any depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a summary determination as a matter of law.

19 C.F.R. § 210.18. The Commission has analogized summary determination to summary judgment, wherein “the evidence of the nonmovant is to be believed, and all justifiable inferences are to be drawn in his favor.” *Certain Carburetors and Products Containing Such Carburetors*, Inv. No. 337-TA-1123, Comm’n Op. at 5-6 (Oct. 28, 2019) (citing *Liebel-Flarsheim Co. v. Medrad, Inc.*, 481 F.3d 1371, 1377 (Fed. Cir. 2007) (citing *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 255 (1986))). Where the moving party bears the burden of proof on a particular issue,

[REDACTED]

the moving party must show that there is no genuine issue of material fact as to every element. *See Meyers v. Asics Corp.*, 974 F.2d 1304, 1307 (Fed. Cir. 1992). Where the nonmoving party bears the burden of proof on a particular issue, the moving party must show that the nonmoving party failed to produce evidence on an essential element of its claim or defense. *See Eli Lilly and Co. v. Barr Labs., Inc.*, 251 F.3d 955, 962 (Fed. Cir. 2001).

A. Domestic Industry

Realtek seeks summary determination that it has satisfied the economic prong of the domestic industry requirement. *See* Mot. at 28-38. The identified domestic activities are those of non-party Broadcom Corp., a subsidiary of Broadcom Inc. *Id.* at 28. The subject of those activities are two products designated BCM 4387 and BCM 4389 (“the DI Products”), which were developed into prototype form [REDACTED], were first sold in late 2020, and are present within various Apple and Samsung Mobile devices. *See* Mot., Ex. 22 (Bakewell Rep.) at ¶¶ 59, 64. AMD does not dispute these facts. *See* Opp’n at 38-39.

Rather, the dispute lies with whether these products are in fact protected by the asserted patents pursuant to 19 U.S.C. § 1337. Realtek contends they are, pursuant to a patent license agreement reached in 2015 between itself and non-party Avago Technologies General IP (Singapore) Pte. Ltd. Mot. at 29; Mot., Ex. 20. AMD opposes.

By way of background, in 2015, Avago Technologies General IP (Singapore) Pte. Ltd. was unrelated to Broadcom Corp., but in 2016, its parent, Avago Technologies Limited, acquired Broadcom Corp., according to AMD’s expert, Mr. Bakewell (Mot., Ex. 22 (Bakewell Rpt.) at ¶ 236 (“In February 2016, Avago Technologies Acquired Broadcom Corp. for ‘total consideration of approximately \$35.7 billion.’”)); and, through a series of transactions, a new top-level parent Broadcom Ltd. was created, later renamed to Broadcom Inc. in 2018. Mot. at 30 (citing Mot., Ex.

[REDACTED]

22 (Bakewell Rpt.) at ¶¶ 45, 47, 232 (including n. 415), 236; Mot., Ex. 30 (Broadcom Ltd. Form 10-K, 2017 at *2); *see* Mot., Ex. 22 (Bakewell Rpt.) at ¶ 236 (“In February 2016, Avago Technologies Acquired Broadcom Corp. for ‘total consideration of approximately \$35.7 billion.’”). All throughout this time, Broadcom Corp. continued and continues to exist. Mot. at 30. [REDACTED]

[REDACTED]

[REDACTED] Mot. at 30 n.8; Mot., Ex. 22 (Bakewell Rpt.) at ¶ 47.

Returning to the “Settlement and Patent License Agreement” (“License”), it was executed in July 2015 between Realtek and Avago Technologies General IP (Singapore) Pte. Ltd. *See* Mot., Ex. 20 at 1, 12. The most pertinent provisions are [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(*id.*), and an article relating to [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(*id.* at 6). Realtek contends, “Broadcom Corp[.] was authorized to practice the subject patents in three ways”:

(1) Broadcom Inc. has explicitly authorized, and agrees that it jointly engages with its subsidiaries in, the research and development that constitutes Broadcom Corp.’s domestic industry activities; (2) Broadcom Corp. has implicit authorization to practice the Patents in Suit given the parent-subsidary relationship between it and Broadcom Inc.; and (3) Broadcom Corp. and Avago Sales are exercising [REDACTED]

Mot. at 29.

Realtek has not shown explicit or implicit “authorization” in the first two ways. [REDACTED]

[REDACTED]

[REDACTED] Realtek claims that because [REDACTED]

[REDACTED] “Broadcom, Inc. is therefore a [REDACTED] and able to authorize others to practice the licensed patents.” Mot. at 30. But its supporting citations are to paragraphs from AMD’s rebuttal expert report which are limited to summaries of the corporate transactions or reproductions of the same license terms presented above. *Id.* (citing Mot., Ex. 22 (Bakewell Rpt.) at ¶¶ 45, 47, 232, 232 n.415, 236). The only possible source for “authorizations” from Broadcom Inc. to Broadcom Corp. might be [REDACTED]

[REDACTED] Mot., Ex. 20 at 4. But further pursuant to that paragraph and viewing all facts in a

[REDACTED]

light most favorable to AMD, the \$35B purchase price of Broadcom Corp. is [REDACTED]

[REDACTED] See Opp'n at 34-36. So Broadcom Corp. is [REDACTED]

[REDACTED] Realtek identifies no other source for "explicit" authorization and Broadcom Corp. cannot otherwise be considered [REDACTED]

[REDACTED] Mot., Ex. 20 at 13 [REDACTED]

[REDACTED]

For implicit authorization under a parent-subsidary relationship between Broadcom Inc. and Broadcom Corp., Realtek asserts this is established Commission precedent. Mot. at 31-32. Not so. As explained by AMD:

First, in *Certain Magnetic Tape Cartridges and Components Thereof*, the Commission affirmed a determination that Sony had authorized IBM to practice the patent claims, but the patents at issue in that case belonged to Sony. Inv. No. 337-TA-1058, Comm'n Op. at 41, (Apr. 9, 2019). The opinion does not stand for the proposition that IBM could have authorized another to use Sony's patents, which is what Realtek advances here. The same is true in *Certain Wearable Monitoring Devices, Sys., & Components Thereof*, wherein the complainant was the patent owner and authorized its own subsidiary to exploit the patent at issue. Inv. No. 337-TA-1190, Order No. 34 at 27-28 (Oct. 1, 2020), *not rev'd in relevant part by* Comm'n Determination at 6 (Apr. 12, 2021).

Opp'n at 37. Neither Avago Sales nor Broadcom Inc. is the patent holder, and the rights they enjoy come only from the License subject to the recited restrictions and exclusions which happen to apply to this exact situation. Thus, no legally operable authorization to practice the Realtek patents from Broadcom Inc. to Broadcom Corp. has been shown.

Realtek's third approach could have merit. No party disputes that Avago Sales is a licensed entity, nor that certain amounts of the BCM 4387 and BCM 4389 are [REDACTED]

[REDACTED] Mot., Ex. 22 (Bakewell Rpt.) at ¶ 47, 61; Mot. at 30. Thus, these products could conceivably fall under [REDACTED] if the products fall

[REDACTED]

under the License's definition of [REDACTED]

[REDACTED] Mot., Ex. 20 at 4, 13.

There is a genuine issue of fact as to whether BCM4387 and BCM4389 chipsets are properly considered [REDACTED] however. As reproduced above, the License defines the term as, [REDACTED]

[REDACTED] with the operative phrase being [REDACTED] Mot., Ex. 20 at 13. On this point, AMD has presented persuasive evidence that BCM4387 and BCM4389 chipsets are in fact products "of" Broadcom Corp. (an unlicensed entity) because of their [REDACTED]

[REDACTED] prior to the acquisition of Broadcom Corp. Opp'n at 38-40 (citing Opp'n, Exs. 30 (Sheridan Rpt.), 31 (Sheridan Dep.), 32 (Singh Dep.); EDIS Doc. ID 797543, Exs. 14, 15). The only countering fact offered by Realtek is that [REDACTED]

[REDACTED] Mot. at 30 (citing Mot., Ex. 22 (Bakewell Rpt.) at ¶ 47). But [REDACTED] is not enough to make these products [REDACTED] as it is not outside the realm of possibility for [REDACTED]

[REDACTED] More information is needed. *See, e.g., Cyrix Corp. v. Intel Corp.*, 77 F.3d 1381, 1387-88 (Fed. Cir. 1996) (discussing details of manufacture location, product transfers, and payments to resolve "have made" dispute).

Viewing what evidence there is in a light favorable to AMD calls into genuine question whether BCM4387 and BCM4389 chipsets are [REDACTED] [REDACTED], which defeats summary determination on the issue. Realtek's assertion that Broadcom Inc. is also a license holder, and because it is the top-level parent entity, all activities of its subsidiaries can be imputed to it, does not cure the issue.

[REDACTED]

AMD presents evidence that “Broadcom maintains a degree of separation among its legal entities” (Opp’n at 42; Opp’n, Ex. 33 (Soubbotina Dep.) at 35:13-36:25); and as noted in the expert report of Mr. Bakewell and Broadcom’s 2017 10-K statement, the actual series of transactions linking Avago and Broadcom is so complicated that Broadcom Inc. may not actually be an [REDACTED] under the license, and thus enjoy any rights itself. *See* Mot., Ex. 20 at 4 (granting rights only to [REDACTED]), 13 (excluding from [REDACTED] entities acquired by a party or acquiring a party after the [REDACTED]); Mot., Ex. 22 at 14 n.67 (referring to temporary holding companies used for the transaction); Mot., Ex. 30 (10-K statement making no mention of temporary holding companies); Mot. at 1 (“Some of the most complex factual and procedural issues the parties have raised would be mooted by summary determination.”); Opp’n, Ex. 30 (Sheridan Rpt.) at ¶ 40 (accepting as true, “in 2016, Avago Technologies acquired Broadcom Corporation and rebranded the combined company as Broadcom Inc.—the name it goes by today.”). Thus, a separate genuine issue exists as to whether Broadcom Inc. enjoys a license to the asserted Realtek patents.

Even if these two facts were as Realtek alleges, there are multiple problems with Realtek’s “labor and capital” investment calculations; it suffices to point out just one. Broadcom reported that in fiscal year 2022, starting about one year after the two DI Products started to be sold, [REDACTED]

[REDACTED] *See* Opp’n at 43 (citing Opp’n, Ex. 35). [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Opp’n, Ex. 32 (Singh Dep.) at 17:21-18:1, 41:5-18, 42:9-25. Such lack of evidence calls into question the

reliability of Broadcom’s numbers, and raises a genuine issue of material fact regarding the nature and significance of the company’s investments. *Certain Wearable Electronic Devices with ECG Functionality and Components Thereof*, Inv. No. 337-TA-1266, Initial Determination at 172-175 (Jun. 27, 2022) (finding lack of familiarity with employee activities detrimental to investment estimates), *aff’d*, Comm’n Op. at 23 n.19 (Jan. 20, 2023) (“The Commission agrees with the ID’s findings relating to the unreliability of AliveCor’s evidence of its internal labor allocations.”).

Accordingly, the portion of Realtek’s motion relating to domestic industry is denied.

B. Muh

AMD asserts that a master’s thesis by Matthew Muh, entitled “Design of a FinFET static frequency divider and a millimeter-wave CMOS push-push VCO” (“Muh”), is prior art to asserted U.S. Patent No. 9,590,582 (“582 patent”). *See* Opp’n at 26. Whether a printed publication, such as Muh, qualifies as prior art under 35 U.S.C. § 102(a)(1) (AIA) depends on whether it was made sufficiently accessible to the public interested in the art before the critical date, an inquiry that is case-specific and depends on the facts and circumstances of the disclosure. *See Voter Verified, Inc. v. Premier Election Solutions, Inc.*, 698 F.3d 1374, 1380 (Fed. Cir. 2012). Realtek contends that AMD has not carried its burden of showing Muh qualifies as a prior art printed publication both because AMD’s evidence of “indexing” does not show it was so indexed before the priority date, and because AMD has not shown Muh was “sufficiently accessible” to the relevant public.

AMD relies principally on the expert report of Dr. Sylvia D. Hall-Ellis, who obtained copies of two index entries for Muh, one from the University of California-Berkeley, which awarded Mr. Muh his master’s degree, and one from the database of the Online Computer Library Center. *See* Opp’n, Ex. 10 at ¶¶ 28, 77-82. Both entries show a cataloging date of 2005, almost eight years before the priority date of the 582 patent, which is sufficient to raise a genuine issue of

material fact on Realtek’s first point. *See id.* at ¶¶ 79-80, Attachments 7A and 7B; Opp’n at 25. On its second point, although Realtek is correct that indexing is “decidedly relevant” to evaluating accessibility, in at least one case the Federal Circuit has held that “a single cataloged thesis in one university library [can] constitute sufficient accessibility to those interested in the art exercising reasonable diligence.” *In re Hall*, 781 F.2d 897, 790 (Fed. Cir. 1986). And AMD persuasively argues that the title of the Muh thesis “is descriptive and includes the term ‘VCO,’ which is directly pertinent to the disclosure in the 582 patent. . . . Thus, as of July 8, 2005, a skilled artisan using reasonable diligence could have also found the Muh thesis using search terms like VCO.” Opp’n at 34; *see id.* at 25; 582 patent at 1:33-36 (“In design of circuits such as a . . . voltage-controlled oscillator (VCO) . . .”).

This is sufficient to raise a genuine issue of material fact regarding Muh’s accessibility to the relevant public.

Therefore, the portion of Realtek’s motion relating to Muh is denied.

C. BCM 1280/1480

AMD asserts that two Broadcom products, the BCM 1280 and BCM 1480, were “marketed by Broadcom more than one year before” November 15, 2007, the earliest effective filing date of U.S. Patent No. 8,000,218 (“218 patent”), and therefore qualify as prior art under 35 U.S.C. §§ 102(b) and 102(g) (pre-AIA). Opp’n at 1-2; *see* 218 patent. Realtek contends that AMD has not met its burden to prove they are prior art under either provision of Section 102. *See* Mot. at 4-17.

The evidence shows at least a genuine issue of material fact over their prior art status. In October 2004 Broadcom announced via an article in a trade journal that both products were “expected to sample” no later than the first quarter of 2005, and would be available for certain customers in 10,000 piece quantities starting at \$599 for the BCM 1280 and \$999 for the BCM

[REDACTED]

1480. Opp’n, Ex. 17 at 3/5. In February 2005, Broadcom issued a press release announcing that the BCM 1480 had won the “Microprocessor Report Analysts’ Choice Award for ‘Best High-Performance Embedded Processor of 2004,’” and that it and the BCM 1280 “are now sampling.” Opp’n, Ex. 11 at *4. In April 2006, an article by Wei Li, et al., entitled “LVS Verification across Multiple Power Domains for a Quad-Core Microprocessor” (“Li”), was published in *ACM Transactions on Design Automation of Electronic Systems*. Opp’n, Ex. 5. This article, which was received by the journal in September 2004, described a design methodology for the BCM 1280, and stated that the methodology “was successfully verified by real silicon,” including by “laboratory tests.” *Id.* at 499-500. And in May 2006, Broadcom issued “Product Briefs” for both chips, which described their features, benefits, and applications, and included block diagram overviews. *See* Opp’n, Exs. 1, 2.

Such evidence shows a triable issue over whether both chips were on sale and had been actually reduced to practice, with no abandonment, concealment, or suppression, before the much later November 15, 2007 priority date of the 218 patent. As to Section 102(b), Realtek contends that the sales evidence does not “disclose the claimed invention.” Mot. at 15. This is irrelevant, because products that satisfy the on-sale bar criteria are prior art for all they embody. *See Pfaff v. Wells Electronics, Inc.*, 124 F.3d 1429, 1436 (Fed. Cir. 1997) (“what was offered for sale before the critical date becomes a prior art reference”) (citations and quotation omitted), *aff’d*, 525 U.S. 55 (1998). Realtek also suggests there is no evidence the chips were on sale in the U.S. *See* Mot. at 14-15. But Broadcom is based in California, most of the listed authors of Li worked for Broadcom at the time in California, and the product briefs list applications such as routers, switches, and wireless infrastructure platforms, which would likely be sold to other technology companies in California. *See* Opp’n, Exs. 1, 2, 5.

[REDACTED]

As to Section 102(g), viewing the evidence in the light most favorable to AMD, there is at least a genuine issue of material fact regarding whether the Broadcom chips were “made in this country by another inventor who had not abandoned, suppressed, or concealed” them: they were reduced to practice by someone at Broadcom in California, who then tested them in the laboratory in “real silicon” form (*see* Opp’n, Ex. 5), and they were commercialized (*see* Opp’n, Exs. 1, 2, 11, 17), all before the 218 patent’s, again, much later, priority date. 35 U.S.C. § 102(g)(2) (pre-AIA). Constructing an embodiment of an invention and showing it worked for its intended purpose demonstrates actual reduction to practice. *See Teva Pharm. Indus., Ltd. v. AstraZeneca Pharms. LP*, 661 F.3d 1378, 1383 (Fed. Cir. 2011). Realtek contends that there is a lack of evidence of conception, but proof of conception as such is not required when there has been an actual reduction to practice before the junior party’s conception date. *See Fox Group, Inc. v. Cree, Inc.*, 700 F.3d 1300, 1304 (Fed. Cir. 2012); Mot. at 7. There are, to be sure, cases requiring the inventor to have “appreciated what [she] had made,” but Realtek does not cite those cases, and in any event Li describes enough features of the claims of 218 patent to raise a genuine issue of material fact on that issue. *Teva*, 661 F.3d at 1384; *see* Opp’n, Ex. 5 at 491, 493 (“each core is now built in a unique voltage region,” with two power supply inputs “grid[d]ed” in various metal layers, such that the cores and peripheral components “could be shut-off to achieve power efficiency”).

Realtek further argues that the chips were suppressed or concealed because their “inner workings” were not sufficiently publicized. Mot. at 10-13. But commercializing a product typically negates abandonment, suppression, or concealment of the product, as opposed to the process by which it is made. *See Checkpoint Systems, Inc. v. Int’l Trade Comm’n*, 54 F.3d 756, 762 (Fed. Cir. 1995); *Fox Group*, 700 F.3d at 1306-07. Realtek also makes much of AMD’s apparent inability to definitively identify the lead author of Li, but the evidence shows that

someone at Broadcom (that is, “another inventor”) constructed the chips, so it is not clear why the identity of Ms. Li in particular is relevant. *See* Mot. at 4-7. Lastly, Realtek criticizes AMD’s Section 102(g) evidence on grounds similar to its criticisms of AMD’s Section 102(b) evidence, and those criticisms are insufficient to warrant summary determination, as explained. *See* Mot. at 8-10.

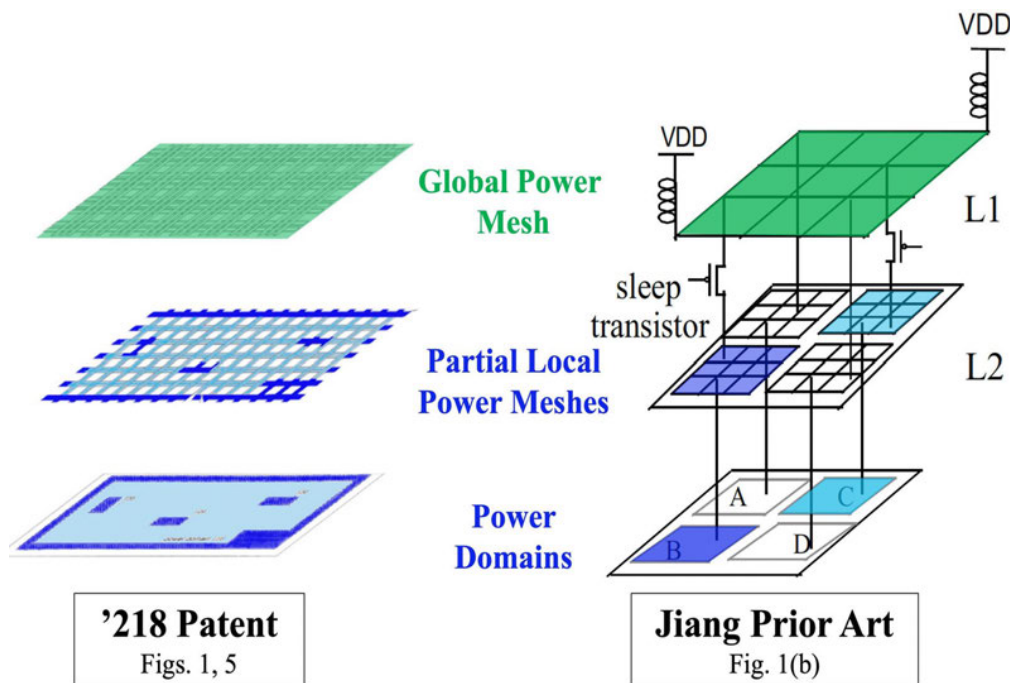
Therefore, the portion of Realtek’s motion relating to the BCM 1280 and BCM 1480 is denied.

D. Jiang and Li

AMD contends that an article by H. Jiang, et al., entitled “Benefits and Costs of Power-Gating Technique” (“Jiang”), published in *Proceedings of the 2005 International Conference on Computer Design*, anticipates claim 12 of the 218 patent. *See* Opp’n at 19; Opp’n, Ex. 20. AMD previously unsuccessfully moved for summary determination that this claim is indefinite, and for present purposes the claim is construed in the manner proposed by Realtek. *See generally* Order No. 20 at 5-10. So construed, Claim 12 recites, in summary, a power routing structure for a chip comprising a global power mesh and first and second partial local power meshes, wherein: (1) the first and second partial local power meshes are positioned corresponding to the positions of first and second power domains, respectively; (2) the global power mesh is coupled to the first and second partial local power meshes to provide the power needed by the first and second power domains separately; (3) the first and second partial local power meshes are positioned in the same metal layer; (4) the global power mesh and the first partial local power mesh are positioned in different metal layers; and (5) the global power mesh includes a plurality of vertical power supply lines and a plurality of horizontal power supply lines, each in different metal layers. *See* 218 patent at cl. 12.

Realtek contends that the second element is missing from Jiang, and therefore that Jiang does not anticipate claim 12. *See* Mot. at 18-21. Specifically, Realtek argues that “Jiang discloses a global mesh . . . with only one power supply” such that it “delivers the same power through the same wiring . . . to both the purported first and second power domains,” which does not qualify as “provid[ing] the power . . . *separately*.” *Id.* at 19-20 (emphasis added).

AMD’s expert, Dr. Vivek Subramanian, opines that this element is disclosed in Jiang. *See* Opp’n, Ex. 21 (Subramanian Rep.) at ¶¶ 216-24. His report contains an annotated and modified comparison of Jiang with Figures 1 and 5 of the 218 patent:



Id. at ¶ 172. Dr. Subramanian opines specifically that the “sleep transistors” inserted between the global power mesh and two of the partial local power meshes “enable[] the global power mesh to power each domain ‘separately’ by selectively turning off each domain’s sleep transistor when desired.” *Id.* at ¶ 220.

This is sufficient to raise a genuine issue of material fact. Realtek counters this evidence with two arguments. *See* Mot. at 20. First, it argues that the sleep transistors are not part of the

[REDACTED]

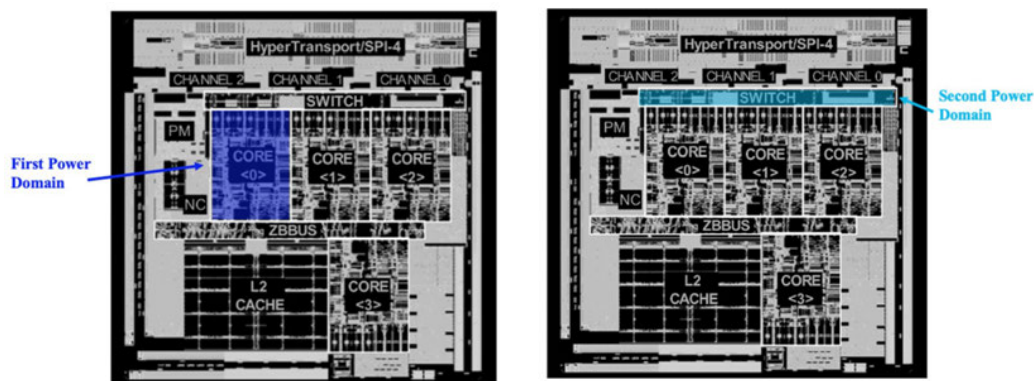
global power mesh. *See id.* But the claim requires that the global power mesh be “coupl[ed] to” the partial local power meshes “to provide the power . . . separately.” 218 patent at cl. 12. A coupling that allows selective distribution of power would seem to meet this limitation, even if some other arrangement, such as two different input voltages supplied to the power domains by separate vias, as in the preferred embodiment, also meets it. *See* 218 patent at 5:8-20. Second, Realtek argues that power must be provided to both domains, but with a sleep transistor either power is provided or it is not, and the claim language is not satisfied when the power is turned off. *See* Mot. at 20-21. The claim language, however, recites “the power needed,” not merely “the power,” so if no power is needed then turning off the power seemingly meets the limitation. 218 patent at cl. 12; *see* Opp’n at 21. Realtek’s arguments are therefore unpersuasive.

There is also a claim construction issue raised by Realtek’s arguments that precludes summary determination. Although the parties have not briefed the construction of “provide the power . . . separately,” its plain and ordinary meaning appears more likely to be entirely structural, that is, “provide the power through separate circuitry” or the like, than to be “provide different voltages through different wiring to different power domains,” which is what Realtek implies the construction should be. *See* Mot. at 19-20 (“Jiang delivers the same power through the same wiring of the global power mesh to both . . . domains”). And Jiang discloses separate “coupling” between its global power mesh and its partial local power meshes, and between its partial local power meshes and its power domains, such that the power domains receive power separately from the global power mesh via their respective partial local power meshes, which seemingly qualifies as “providing the power through separate circuitry.” *See* Opp’n, Ex. 20 at Fig. 1(b).

AMD further contends that the claims of the 218 patent would have been obvious in view of Li, either alone or in combination with Jiang. *See* Opp’n at 22. Realtek seeks summary

determination that Li does not disclose the first limitation recited above, that is, first and second partial local power meshes positioned corresponding to the positions of first and second power domains, respectively. *See* Mot. at 21. More precisely, Realtek argues that Li does not expressly or inherently disclose that the partial local power meshes are positioned “corresponding to” their associated power domains. *See id.* at 22-23.

Dr. Subramanian opines that Li “discloses or at least renders obvious” this limitation. *See* Opp’n, Ex. 21 (Subramanian Rep.) at ¶¶ 274, 284. He identifies Li’s “local power grids” in the “local sections” as the claimed partial local power meshes, one of Li’s “processor cores” as the claimed first power domain, and Li’s “switch” as the claimed second power domain:



Id. at ¶¶ 274-75, 284-85 (citing Opp’n, Ex. 5 at 491-92, Fig. 1). He also cites Li’s description of how the “local power grids” are formed: “Li explains that ‘the power and ground lines in the local sections are gridded on Metal-2 through Metal-5, on which the local power grids are formed at the block level.’” Opp’n, Ex. 21 (Subramanian Rep.) at ¶ 275 (quoting Opp’n, Ex. 5 at 493) (cleaned up).

Most importantly, Dr. Subramanian opines that “[f]orming local power grids ‘at the block level’ means that they are formed to correspond to the underlying circuitry that they will supply, such that they cover only a portion of the BCM1280 chip.” Opp’n, Ex. 21 (Subramanian Rep.) at ¶ 276. This is sufficient to raise a genuine issue of material fact. Realtek’s arguments on this point

[REDACTED]

have been considered but are not persuasive, and it presumably has its own expert who will opine on the subject. *See* Mot. at 22-24.

Therefore, the portion of Realtek's motion relating to Jiang and Li is denied.

Realtek's motion for summary determination (1350-014) is accordingly DENIED.

Within seven days of the date of this document, the parties shall submit to the Office of the Administrative Law Judges a joint statement as to whether or not they seek to have any portion of this document deleted from the public version. If the parties do seek to have portions of this document deleted from the public version, they must submit to this office a copy of this document with red brackets indicating the portion or portions asserted to contain confidential business information. The submission may be made by email and/or hard copy by the aforementioned date and need not be filed with the Commission Secretary

SO ORDERED.



Cameron Elliot
Administrative Law Judge